

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0539**

**Sales Tax**

**Calendar Years 1996, 1997, and 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Selling at Retail – Best Information Available**

**Authority:** 45 IAC 2.2-6-8; IC 6-8.1-5-1

Taxpayer protests the tax.

**STATEMENT OF FACTS**

The Taxpayer operates a tavern and is a sole proprietor. At audit and after numerous requests, taxpayer failed to provide documentation. Auditor attributed the sales based on cost of goods sold. Originally a multiplier of 4 was used in this type of business, but the taxpayer's oral testimony and price list was adequately persuasive to the auditor to reduce the multiplier to 3. Taxpayer had no source documents or cash register tapes.

Taxpayer submitted a protest that was received by the Indiana Department of Revenue on October 8, 1999 that requested a hearing. In addition to the numerous requests made by the auditor, the hearing officer returned the file to the auditor because the taxpayer's representative stated that he had additional information. The file was returned without resolution because no records were made available. The taxpayer or his representative never adhered to numerous requests and three scheduling hearings. In a letter dated July 29 2002, the hearing officer scheduled a final hearing for September 3, 2002. No one appeared.

**I. Selling at Retail – Best Information Available**

**DISCUSSION**

Taxpayer's representative simply maintains that the assessment is too high and has provided no documentation to rebut the assessment.

In reviewing the audit report and the file, it is noted that the assessments, to which the taxpayer

disagrees, stem from taxpayer's failure to retain cash register receipts and books.

IC 6-8.1-5-4 (a) states:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and cancelled checks.

Taxpayer provided nothing to aid in the resolution of the audit.

**FINDING**

Taxpayer's protest is denied.